

method of diagnostic PCR. Applicants elect, with traverse, Invention I represented by the remaining pending claims 39-58 and 62-93. Applicants reserve the right to timely file and prosecute one or more divisional patent applications covering the subject matter of the non-elected claims and claim priority from the parent application.

The Examiner also required the election of a species for prosecution. In view of the cancellation of claim 1, the applicants believe that there is no longer a need for an election of species but the applicants none the less elect protein tags as the species.

In order for the Examiners restriction of inventions I and II to be proper, the subcombination of invention II must be shown to "have utility either by itself or in other and different relations." The applicants assert that invention II cannot be used independently of invention I. Claim 59 recites that molecules are tagged and that "separation of tagged and untagged molecules" occurs. Claim 39 recites that molecules are tagged and that "tagged molecules are captured by the matrix and thereby separated from untagged molecules." Therefore both claims 39 (invention I) and 59 (invention II) are directed to the separation of molecules by the use of tags and should not be classified as separate inventions.

In view of the above arguments the applicants respectfully request that the restriction of inventions I and II be withdrawn and that pending claims 39-93 be examined.

#### **AUTHORIZATION**

Should any additional fees be deemed to be properly assessable in this application for the timely consideration of this response, the Commissioner is hereby authorized to charge any such additional fee(s), or to credit any overpayment, to

Deposit Account No. 13-4500, Order No. 0708-4064US1. **A duplicate copy of this sheet is attached.**

**CONCLUSION**

In the event that the Examiner is of the opinion that further discussion of the application would be helpful, the Examiner is requested to telephone the applicants' undersigned representative at (212) 415-8710.

Respectfully submitted,

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